

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE TWENTY FIRST DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT APPEAL NO : 125 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated
09/08/2002 in WP NO : 7426 OF 2000 on the file of the High Court.)

Between:

- 1 Boyi Yellayamma, W/o Late Mahalaxmi,
R/o Asivanipalem, Visakhapatnam
- 2 Boyi Appa Rao, S/o Late Mahalaxmi
R/o Asivanipalem, Visakhapatnam
- 3 Boyi Eswararao, S/o Late Mahalaxmi
R/o Asivanipalem, Visakhapatnam

..... APPELLANT(S)

AND

- 1 The State of Andhra Pradesh, rep. by its Principal Secretary to Revenue
Department,
- 2 The Commissioner, Urban Land Ceilings, Nampally, Hyderabad.
- 3 The Special Officer and Competent Authority, Urban Land Ceilings,
Visakhapatnam.
- 4 The District Collector, Visakhapatnam.
- 5 The Vice-Chairman, Visakhapatnam Urban Development Authority,
Visakhapatnam.
- 6 The Mandal Revenue Officer, Sitammadara, Visakhapatnam.
- 7 District Manager, A.P. State Housing Corporation Ltd.,
Visakhapatnam.
- 8 The Station House Officer, 5th Town L & O Police Station,
Visakhapatnam.

.....RESPONDENTS

Counsel for the Appellants:MR.C.HANUMANTHA RAO

Counsel for the Respondent Nos.1 to 4 and 6 and 8: GP FOR REVENUE

Counsel for the Respondent No.5: None

Counsel for the Respondent No.7: Mr.V.Ch. Naidu

The Court made the following :

Oral Order: (per Sri Devinder Gupta,CJ)

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HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

AND

THE HON'BLE SRI JUSTICE C.V. RAMULU

WRIT APPEAL No. 125 of 2004

ORAL ORDER: (per Sri Devinder Gupta, CJ)

Appellants' writ petition was dismissed by the learned single judge on the ground that the Housing Corporation had already constructed houses and allotted the same to the beneficiaries and thus there is no case for grant of relief to the petitioners.

As a matter of fact, learned single judge did notice the stand taken by the appellants-writ petitioners, but did not take any decision thereupon and was swayed with the consideration that as per the counter affidavit of the respondents, Housing Corporation had already constructed houses and allotted the same to the beneficiaries. Therefore there was no occasion to grant any relief to the petitioners.

The case of the writ petitioners relate to land in Survey No.209/5A measuring 0.1049 sq. mtrs., which was declared as surplus. During the pendency of the appeal, report was called for from the Mandal Revenue Officer, Sitammadara and he submitted his report on 30.6.2004 stating that the land in Survey No.209/5A measuring 0.1049, which is shown in purple colour in the plan attached is lying vacant and no structure was found on that part of the land.

Under these circumstances, it would be but proper to hear and dispose of the appellant's writ petition on merits rather than dismissing the same on the ground that Housing Corporation had already constructed houses and allotted the same to the beneficiaries. The appeal is therefore allowed and the impugned order is set aside. The learned single judge shall hear and decide the writ petition afresh.

The report of Mandal Revenue Officer dated 30.6.2004 will form part of the writ

record.

DEVINDER GUPTA,CJ

DATE: 21ST JULY, 2004

C.V. RAMULU,J

Pnb

To

1. The Principal Secretary to Revenue Department, State of Andhra Pradesh, Hyderabad.
2. The Commissioner, Urban Land Ceilings, Nampally, Hyderabad.
3. The Special Officer and Competent Authority, Urban Land Ceilings, Visakhapatnam.
4. The District Collector, Visakhapatnam.
5. The Vice-Chairman, Visakhapatnam Urban Development Authority, Visakhapatnam.
6. The Mandal Revenue Officer, Sitammadara, Visakhapatnam

7. District Manager, A.P. State Housing Corporation Ltd.,
Visakhapatnam.
8. The Station House Officer, 5th Town L & O Police Station,
Visakhapatnam.